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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-827]

Certain Cased Pencils From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review, and Determination To Revoke Order, in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On July 18, 2012, the Department of Commerce ("the Department") published a notice of initiation and preliminary results of a changed circumstance review and intent to revoke, in part, the antidumping duty ("AD") order of certain cased pencils from the People's Republic of China ("PRC"). The final results do not differ from the preliminary results of review, and we are revoking the order, in part, with respect to novelty drumstick pencils. This partial revocation is effective June 1, 2011.

EFFECTIVE DATE: June 1, 2011

FOR FURTHER INFORMATION CONTACT: Mahnaz Khan at (202) 482-0914 or Yasmin Nair at (202) 482-3813; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Background

On December 28, 1994, the Department published in the *Federal Register* the AD order on certain cased pencils from the PRC. *See Antidumping Duty Order: Certain Cased Pencils from the People's Republic of China*, 59 FR 66909 (December 28, 1994) ("AD order"). On May 23, 2012, in accordance with section 751(b) and 751(d)(1) of the Tariff Act of 1930, as amended

(“the Act”), 19 CFR 351.216(b), and 19 CFR 351.222(g)(1), ThinkGeek, a U.S. importer of subject merchandise, requested revocation, in part, of the AD order with respect to its novelty pencil, which is shaped like a drumstick. ThinkGeek’s novelty drumstick pencil is made to look like a pencil, except that it is shaped as a drumstick. This pencil is longer than regular wooden pencils and does not contain an eraser. ThinkGeek requested that the Department conduct the changed circumstances review on an expedited basis pursuant to 19 CFR 351.221(c)(3)(ii).

On July 18, 2012, the Department published its concurrent initiation and preliminary results of this changed circumstances review. *See Certain Cased Pencils From the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review, and Intent To Revoke Order in Part*, 77 FR 42276 (July 18, 2012) (“*Preliminary Results*”). The Department preliminarily determined to revoke, in part, the AD order on certain cased pencils from the PRC with respect to novelty drumstick pencils. In the *Preliminary Results*, we stated that interested parties could submit comments to the Department no later than 14 days after the publication of the *Preliminary Results* in the *Federal Register*. No interested parties submitted comments on the changed circumstances review.

Scope of the Order

Imports covered by the order are shipments of certain cased pencils of any shape or dimension (except as described below) which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (*e.g.*, with erasers, *etc.*) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are currently classifiable under subheading 9609.10.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non-cased

crayons (wax), pastels, charcoals, chalks, and pencils produced under U.S. patent number 6,217,242, from paper infused with scents by the means covered in the above-referenced patent, thereby having odors distinct from those that may emanate from pencils lacking the scent infusion. Also excluded from the scope of the order are pencils with all of the following physical characteristics: (1) *Length*: 13.5 or more inches; (2) *sheath diameter*: not less than one-and-one quarter inches at any point (before sharpening); and (3) *core length*: not more than 15 percent of the length of the pencil.

In addition, pencils with all of the following characteristics are excluded from the order: novelty jumbo pencils that are octagonal in shape, approximately ten inches long, one inch in diameter before sharpening, and three-and-one eighth inches in circumference, composed of turned wood encasing one-and-one half inches of sharpened lead on one end and a rubber eraser on the other end. Also excluded are novelty drumstick pencils that are shaped like drumsticks, longer than regular wooden pencils, and do not contain erasers.

Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope and order is dispositive.

Final Results of Changed Circumstances Review

Based on the Department's analysis in the *Preliminary Results* (which we incorporate herein by reference) and in light of the fact that no interested parties submitted any comments on the Department's preliminary results, the Department hereby determines to revoke, in part, the AD order with respect to novelty drumstick pencils. For the reasons indicated in the *Preliminary Results*, the effective date of this determination is June 1, 2011. *See Preliminary Results*, 77 FR at 42277. In addition, the Department has modified the scope of the AD order, as reflected above, consistent with these final results.

We will instruct U.S. Customs and Border Protection (“CBP”) to liquidate without regard to antidumping duties all unliquidated entries of novelty drumstick pencils entered, or withdrawn from warehouse, for consumption on or after June 1, 2011. The Department will further instruct CBP to refund with interest any estimated antidumping duties collected with respect to these entries, in accordance with section 778 of the Act and 19 CFR 351.222(g)(4).

This changed circumstances administrative review, partial revocation of the antidumping duty order and notice are in accordance with sections 751(b) and (d), 777(i), and 782(h) of the Act and 19 CFR 351.216(e) and 351.222(g).

Paul Piquado
Assistant Secretary
for Import Administration

August 27, 2012
Date

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